

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3 JON L. KENNISON,

Case No.: 2:24-cv-00144-APG-DJA

4                   Plaintiff

**Order**

5 v.

6 NDOC, et al.,

7                   Defendants  
8

9           Plaintiff Jon Kennison brings this civil-rights action under 42 U.S.C. § 1983 to redress  
10 constitutional violations that he claims he suffered while incarcerated at High Desert State  
11 Prison. ECF No. 4. On November 19, 2024, I ordered Kennison to file an amended complaint by  
12 December 23, 2024. ECF No. 3. I warned Kennison that the action could be dismissed if he  
13 failed to file an amended complaint by that deadline. *Id.* at 10–11. Kennison requested and  
14 received an extension of that deadline to February 6, 2025. ECF No. 6. That deadline expired  
15 and Kennison did not file an amended complaint, move for another extension, or otherwise  
16 respond.

17           District courts have the inherent power to control their dockets and “[i]n the exercise of  
18 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.  
19 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
20 dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See*  
21 *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply  
22 with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S.*  
23 *Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with

1 court order). In determining whether to dismiss an action on one of these grounds, I must  
2 consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to  
3 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
4 disposition of cases on their merits; and (5) the availability of less drastic alternatives. *See In re*  
5 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*,  
6 833 F.2d at 130).

7       The first two factors, the public’s interest in expeditiously resolving this litigation and the  
8 court’s interest in managing its docket, weigh in favor of dismissal of Kennison’s claims. The  
9 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
10 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
11 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th  
12 Cir. 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is  
13 greatly outweighed by the factors favoring dismissal.

14       The fifth factor requires me to consider whether less drastic alternatives can be used to  
15 correct the party’s failure that brought about the court’s need to consider dismissal. *See Yourish*  
16 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic  
17 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*  
18 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive  
19 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives  
20 prior to disobedience of the court’s order as satisfying this element[,]” *i.e.*, like the “initial  
21 granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have  
22 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before  
23 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.*

1 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed  
2 until and unless Kennison files an amended complaint, the only alternative is to enter another  
3 order setting another deadline. But the reality of repeating an ignored order is that it often only  
4 delays the inevitable and squanders the court's finite resources. The circumstances here do not  
5 indicate that this case will be an exception: there is no hint that Kennison needs additional time  
6 or evidence that he did not receive the screening order. Setting another deadline is not a  
7 meaningful alternative given these circumstances. So the fifth factor favors dismissal.

8 Having thoroughly considered these dismissal factors, I find that they weigh in favor of  
9 dismissal.

10 I THEREFORE ORDER that this action is dismissed without prejudice based on  
11 Kennison's failure to file an amended complaint and for failure to state a claim. The Clerk of  
12 Court is kindly requested to enter judgment accordingly and close this case. No other documents  
13 may be filed in this now-closed case. If Kennison wishes to pursue his claims, he must file a  
14 complaint in a new case.

15 I FURTHER ORDER that Kennison's application to proceed in forma pauperis (**ECF**  
16 **No. 1**) **is granted**. Kennison is not required to pay an initial installment fee, but the full \$350  
17 filing fee will still be paid in installments under 28 U.S.C. § 1915.

18 I FURTHER ORDER that, under 28 U.S.C. § 1915, the Nevada Department of  
19 Corrections will forward payments from the account of Jon L. Kennison, #1182302 to the Clerk  
20 of the United States District Court, District of Nevada, at a rate of 20% of the preceding month's  
21 deposits (in months that the account exceeds \$10.00) until the full \$350 filing fee has been paid  
22 for this action. The Clerk of Court is kindly requested to send a copy of this order to the Finance  
23

1 Division of the Clerk's Office and to the Chief of Inmate Services for the Nevada Department of  
2 Corrections at [formapauperis@doc.nv.gov](mailto:formapauperis@doc.nv.gov).

3 Dated: February 14, 2025



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5 Chief United States District Judge